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16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **OAKLAND DIVISION**

19 EPIC GAMES, INC.,
20 *Plaintiff, Counter-defendant,*
21 *v.*
22 APPLE INC.,
23 *Defendant, Counterclaimant.*

Case No. 4:20-CV-05640-YGR-TSH

**DECLARATION OF J. WESLEY
EARNHARDT IN SUPPORT OF EPIC
GAMES, INC.'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL**

The Honorable Yvonne Gonzalez Rogers

1 I, J. Wesley Earnhardt, declare as follows:

2 1. I am an attorney licensed to practice in the State of New York and admitted to
3 appear before this Court *pro hac vice* in *Epic Games, Inc. v. Apple Inc.*, Case No. 4:20-cv-05640-
4 YGR-TSH. I am a partner at the law firm of Cravath, Swaine & Moore LLP and am one of the
5 attorneys representing Epic Games, Inc. (“Epic”) in the above-captioned action.

6 2. I submit this declaration pursuant to Civil Local Rules 7-11(a) and 79-5(d)-(e) in
7 support of Epic’s Administration Motion to File Under Seal Supporting Exhibits B, H, and I to
8 J. Wesley Earnhardt’s Declaration In Support of Epic’s Opposition to Apple Inc.’s Motion for an
9 Adverse Credibility Finding. The contents of this declaration are based on my personal
10 knowledge.

11 3. Epic moves to seal Supporting Exhibits H and I and portions of Supporting Exhibit
12 B, which contain information that non-party Microsoft Corporation has designated as “HIGHLY
13 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the protective order entered in *Epic*
14 *Games, Inc. v. Apple Inc.*, No. 20-cv-05640-YGR-TSH, ECF No. 112. With respect to Exhibit B,
15 Epic moves to seal only those portions of the excerpted deposition transcript for which Microsoft
16 has not agreed to remove its “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
17 designation.

18
19 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
20 is true and correct and that I executed this declaration on May 12, 2021 in Westchester County,
21 New York.

22 /s/ J. Wesley Earnhardt

23 J. Wesley Earnhardt
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